

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 4027 of 2005

Between:

Toddy Tappers Cooperative Society Karimnagar Group No. Karimnagar, karimnagar
District rep by President Mr. V. Ramaswamy S/o Lingaiah

..... PETITIONER

AND

- 1 The Proh & Excise Superintendent karimnagar District at karimnagar
- 2 The District Collector Karimnagar District at Karimnagar
- 3 The Commissioner of Prohibition & Excise, Government of A.P., at Hyderabad
- 4 Mr. P. Shankaraiah C/o Anjaneyulu H. No. 7-2-282/A, M.M. Thota,
Karimnagar

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondents in taking action for granting of new toddy shop Licences in favour of Respondent No.4 Mr. P. Shankaraiah and others within the area of operation of petitioner society/TCS Karimnagar No.3 as illegal, arbitrary unjust and contrary to law and violative of principles of natural justice and set a side the same and further direct the respondents not to grant any toddy shop licence in favour of Respondent NO.4 Mr.P. Shankaraiah and others within the area of operation of petitioner society/TCS Karimnagar No.3 and pass such other order or orders as may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.AMARNATH GOUD THODUPUNURI

Counsel for the Respondent No.: GP FOR PROHIBITION & EXCISE

The Court at the admission stage made the following :

ORDER:

The present writ petition is filed questioning the action of the respondents in proceeding to grant new toddy shop licence in favour of 4th respondent within the area of operation of the petitioner society/TCS- Karimnagar No.3.

The petitioner claims to be President of Toddy Tappers Cooperative Society - Karimnagar Group No.3. The society was granted licences for ward Nos. 1, 32, 29, 24 and 23 vide licence Nos. 23, 24, 25, 26 and 27, dated 3-4-2002, valid upto 31-3-2007. While so, the 4th respondent and others filed applications for sanction of new societies and establishment of new toddy shops, but the same by order dated 16-1-2005, were rejected by the second respondent. As against the said order, the 4th respondent filed an appeal before the third respondent which was registered as Cr No. 1476/05/CPE/E4 dated 2-2-2005. Thereupon, the third respondent vide proceedings dated 7-10-2004 issued a State-wide time schedule for grant of new licences, by fixing the last date for issuing the licences by the Prohibition and Excise Superintendents as 28-2-2005. The grievance of the petitioner is that the 4th respondent filed applications seeking new toddy licences for the areas falling under the control of petitioner society, which is violative of the guidelines issued by the Government from time to time. It is also stated that though the petitioner has filed its objections before the respondents, the same were not considered. Hence, the present writ petition apprehending that the respondents may grant licence to the 4th respondent illegally in the areas falling within their control.

Pursuant to the notice ordered by this Court, a counter affidavit was filed on behalf of respondent Nos 1 to 3 denying the averments made in the writ petition. It is stated that in view of the new excise toddy policy for the year 2004-05, the 4th respondent and others had applied for grant of new TCS shops at Karimnagar, for which the petitioner has filed his objections, which were rejected vide proceedings of the 2nd respondent in Rc No. 217/P&Ex/2004/B1 dated 16-1-2005, and aggrieved thereby, the petitioner filed an appeal before the Commissioner of Prohibition and Excise,

which is pending in

Cr No. 1476/05/CPE/E4 dated 2-2-2005. It is specifically stated that the new toddy policy guidelines on toddy for the year 2004-05 were issued vide G.O. Ms. No.767 Revenue (Excise-II) Department, for the period from 1-10-2004 to 30-9-2005, and the same are being implemented in toto. It is stated that pursuant to the orders of the Commissioner of Prohibition and Excise, an enquiry was conducted, and a report was submitted to the effect that the request of the petitioner cannot be considered in view of variation in opinion on location of the shop at Kotha Yaswada and Vidyanagar. However, it is stated that final orders are yet to be passed. It is further stated that schedule earlier fixed was replaced by the Commissioner of Prohibition and Excise, by order dated 10-3-2005, fixing the last date for issuance of licences as 29-3-2005, and decision has not yet been taken, and the same is pending till date.

Learned Government Pleader for Prohibition and Excise submitted that though the last date for issuance of licences was fixed as 29-3-2005, no licences have been granted, and the Commissioner of Prohibition and Excise, is yet to take a decision.

In view of the specific statement made in the counter affidavit by the respondents that the final decision in the matter is pending with the Commissioner of Prohibition and Excise, and is yet to take a decision, the apprehension of the petitioner that new toddy licences would be granted in respect of the areas falling within its control, cannot be countenanced. Therefore, I see no reason to proceed further in the matter.

Accordingly, the writ petition is closed. No costs.

N.V.RAMANA,J

29TH APRIL, 2005

Tvk

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Proh & Excise Superintendent karimnagar District at karimnagar
- 2 The District Collector Karimnagar District at Karimnagar
- 3 The Commissioner of Prohibition & Excise, Government of A.P., at Hyderabad
- 4 Mr. P. Shankaraiah C/o Anjaneyulu H. No. 7-2-282/A, M.M. Thota,
Karimnagar

5) 2 CD copies

6) 1 CC to MR.AMARNATH GOUD THODUPUNURI

7) 2 CCs to Government Pleader for Prohibition and Excise, High Court of A.P.
Buildings, Hyderabad (OUT)

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